

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HOWARD A. FORD,
Petitioner,

v.

FRANKLIN J. TENNIS,
Respondent.

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**CIVIL ACTION
NO. 09-5669**

ORDER

AND NOW, this 13th day of January, 2011, after careful review and independent consideration of Petitioner's Petition for Writ of Habeas Corpus Under 28 U.S.C. §2254, the answer thereto, and the entire record in this case, and upon review of the Report and Recommendation of United States Magistrate Judge Timothy R. Rice, and noting that no objections have been filed, it is hereby **ORDERED** that the Report and Recommendation is **APPROVED** and **ADOPTED** for the reasons set forth in the Report and Recommendation.¹ Accordingly, Petitioner's Petition for Writ of Habeas Corpus is **DENIED**, and no Certificate of Appealability will be issued.

The Clerk of Court is **DIRECTED** to mark this case **CLOSED**.

¹ This Court agrees with the R & R's well reasoned analysis of the merits of the case. The Court agrees that the state courts correctly applied the standards set forth in Strickland v. Washington, 466 U.S. 668 (1984) when they determined that Ford had not been denied effective assistance of counsel when his attorney failed to challenge Ford's guilty plea or when his attorney stipulated to drug use and treatment after Ford admitted to both on the record. The Court also agrees that Ford's argument that his counsel was ineffective for failing to raise ex post facto claim is procedurally defaulted because he failed to properly present it to the state courts and Ford is now beyond the one-year limitations period for filing an additional PCRA petition. As he has no valid grounds to excuse default, the Court may not review this claim. Similarly, the new issues raised in Ford's reply brief, filed June 13, 2010, are procedurally defaulted as they were not timely presented to the state court, and are also time barred by the one-year federal habeas limitation period, as they do not relate back to his original petition.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.